

WESTBANK MESA HOMEOWNERS ASSOCIATION ENFORCEMENT POLICY

Adopted December 20, 2018

The following procedures have been adopted by the Westbank Mesa Homeowners Association (“Association”) pursuant to C.R.S. 38-33.3-209.5.

THEREFORE, IT IS RESOLVED that the Association does hereby adopt the following policies and procedures for the enforcement of the Association’s restrictive covenants and rules:

1. Power. The Board of Directors shall have the power and duty to hear and make decisions regarding violations and written complaints filed with the Board and impose fines or other sanctions, pursuant to this Policy. The Board may determine enforcement action on a case by case basis, and take other actions as it may deem necessary and appropriate to assure compliance with the Declaration of Covenants, Conditions, and Restrictions for Westbank Mesa Filing No. 1 (“Declaration”), the Association’s Articles of Incorporation, Bylaws, policies, and rules and regulations (collectively the “Documents”) promulgated thereunder, and to create a safe and harmonious living environment.

These enforcement provisions may be in addition to other specific provisions outlined in the Documents, and the Association is not required to follow these enforcement provisions before seeking such other remedies. The Association may choose a legal remedy or seek assistance from other enforcement authorities, such as police, fire, or animal control, as it deems appropriate.

2. Complaint. A proceeding to determine if the Documents have been violated and any enforcement measures and remedies that may apply shall be initiated by the filing of a written complaint with or by the Association’s Board. The complaint shall state the specific provision(s) of the Documents alleged to have been violated and as many specifics as are available as to time, date, location and persons involved.

3. Notice of Complaint and Warning Letter. Upon receipt of a complaint, if the Board determines that the allegations in the complaint are sufficient to constitute a violation of the Documents and that action is warranted, the Board shall send a warning letter (“Warning Letter”) to the person(s) (the “Respondent”) alleged to have violated the Documents, by prepaid, first class United States mail addressed to the mailing address of the Respondent appearing on the records of the Association. The Warning Letter shall advise the Respondent of the following: (1) the details of the complaint, or include a copy of the complaint; (2) that

the Board has reason to believe that the Respondent has violated the covenants or rules of the Association; and (3) directing that the Respondent cease the violating activity or that the Respondent will have 14 days from the date of the Warning Letter to come into compliance, or that further enforcement action will be taken for enforcement of the covenants and rules of the Association, including the imposition of fines.

4. Continued Violation After Warning Letter and Right to Hearing. If, following the Warning Letter having been sent to the Respondent, the Association receives further complaint of the same or similar violations by the same Respondent or that the Respondent has not corrected the violation within the time permitted, the Association shall send a second notice to the Respondent, by prepaid, first class United States mail addressed to the mailing address of the Respondent appearing on the records of the Association. The notice shall advise the Respondent of the following: (1) the details of the complaint, or include a copy of the complaint; (2) the action that may be taken; (3) his or her right to be heard, either orally or in writing, by a committee appointed by the Board at a meeting of the Board which is at least fifteen (15) days after the date of the notice; (4) the date on which the hearing will be scheduled; and (5) the Board's right to proceed with or without a hearing, at its discretion, to make its determination of the allegations contained in the Complaint based on all relevant facts and circumstances, if the Respondent fails to appear at the specified date and time or otherwise respond to the Complaint.

5. Hearing. Each hearing shall be held at the scheduled time, place and date, unless the Respondent has failed to respond or appear at the hearing. The Board may grant continuances for good cause. Each hearing shall be held by a Hearing Committee. The Hearing Committee shall consist of a person or persons appointed by the Board, which may be the Board itself, who do not have any direct personal or financial interest in the outcome of the hearing. A person is deemed not to have a direct personal or financial interest if he/she will not receive any greater benefit or detriment from the outcome than will the general membership of the Association. The Hearing Committee may: (a) exercise its discretion as to the specific manner in which a hearing shall be conducted; (b) question witnesses and review evidence; and (c) act as it may deem appropriate or desirable to permit it to reach a just decision. Neither the Complainant nor the Respondent must be in attendance at the hearing, but both are encouraged to attend. Any party may elect not to present evidence at the hearing. Any decision by the Hearing Committee shall be fair and reasonable taking into consideration all of the relevant facts and circumstances.

6. Decision. If the Respondent does not appear but a written response is filed, the Hearing Committee shall render its decision based on the information contained in the Complaint and the written response, considering all of the relevant facts and circumstances. If neither an appearance nor a written response is made, the Hearing Committee need not conduct a hearing

or make any further findings except that it may determine that the Respondent's failure to appear or respond constitutes a waiver of the right to a hearing, and a no-contest plea to the Complaint, and impose the sanctions provided for herein. If an appearance is made, after all testimony and other evidence has been presented to the Hearing Committee at a hearing, the Hearing Committee shall render its decision(s), taking into consideration all of the relevant facts and circumstances. Except as provided herein, the Hearing Committee's decision shall have an effective date no sooner than five (5) days after the hearing. If the Hearing Committee does not inform the Respondent of its decision at the time of the hearing, or if no hearing is held, the Hearing Committee will provide a written notice of the decision to the Respondent's address of record via regular U.S. mail within five (5) days after the decision is made.

7. Enforcement. The provisions of this Policy shall not limit, or be a condition precedent to, the Association's right to enforce the Documents by any means available to the Association, including, but not limited to, commencement of a lawsuit to force compliance or seeking injunctive relief or damages. The Association shall be entitled to reimbursement of all reasonable attorney's fees and costs incurred by the Association in connection with any enforcement action, including any proceeding under this Policy. Without limiting the Association's remedies under the Documents, the Hearing Committee may assess fines, and impose other sanctions in accordance with this Policy. If the violation involves damage to Association property, the violator shall also pay the costs of repair or replacement. The Hearing Committee may revoke or suspend the violator's privileges for a period of time equal to the duration of the violation and for up to sixty (60) days thereafter, unless such violation is a continuing violation, in which case such suspension may continue for so long as such violation continues and for up to sixty (60) days thereafter.

8. Fines. Fines may be levied by the Hearing Committee for violations of the Documents as follows:

Number of Violations in 12 Month Period Fine Amount

- First violation - \$100 (after warning)
- Second violation - \$150
- Third violation - \$200

9. Habitual Offenders and Continuing Violations. A Member who accumulates more than three violations within a 12 month period will be deemed to be a habitual offender. For habitual offenders, continuing violations, or violations which have an indefinite commencement or termination date, the Hearing Committee may impose such additional fines as are deemed reasonable by the Hearing Committee without regard to the schedule set forth

above. The Hearing Committee's decision shall set forth the interval for any fines for continuing or habitual violations.

10. Willful and Wanton Violations. In the event of a determination by the Hearing Committee of a willful, wanton or flagrant disregard for the provisions of the Documents, or based on the severity of the violation, the Hearing Committee may impose such additional fines as are deemed reasonable by the Hearing Committee without regard to the schedule set forth above.

11. Responsibility for Actions of Tenant or Guest. Homeowners shall at all times be responsible for the actions of their tenants and guests. In the event that a Homeowner's tenant or guest violates the Documents and a fine is imposed, the fine shall be assessed against that Homeowner.

12. Violations or Offenses that Constitute a Present Danger. If, in its sole discretion, the Board deems that any alleged violation is or may be an immediate or substantial threat to the health, safety or welfare of the community or an individual, the Board may take the appropriate action necessary to abate the threat to health, safety or welfare of the community or individual.

13. Miscellaneous.

13.1 Failure by the Association to enforce any provision of this Policy shall in no event be deemed to be a waiver of the right to do so thereafter.

13.2 Fines imposed pursuant to this Policy shall become an Assessment imposed against the record Owner's real estate and enforceable as provided in the Declaration.

13.3 The provisions of this Policy shall be independent and severable. The invalidity of any one or more of the provisions hereof by judgment or court order or decree shall in no way affect the validity or enforceability of any of the other provisions, which other provisions shall remain in full force and effect.

13.4 The provisions of this Policy shall replace and supercede any other rules or regulations of the Association addressing the enforcement of the Association's Documents.

Westbank Mesa Homeowners Association

By *Roger Brown*, President

This Enforcement Policy was adopted by the Board of Directors on the 20th day of December 2018, effective the 20th day of December 2018, and is attested to by the Secretary of Westbank Mesa Homeowners Association.

Kristen Blizzard, Secretary